

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2386

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-557, Arizona Revised Statutes, is amended to  
3 read:

4           36-557. Purchase of community developmental disabilities  
5           services; application; contracts; limitation

6           A. The department may use state and federal funds appropriated or  
7 otherwise available to it for this purpose to assist in the establishment and  
8 maintenance of local developmental disability services by public or private  
9 nonprofit or profit agencies. The funds may be expended as professional fees  
10 for service, in contracts for advancement or reimbursement or in another  
11 appropriate manner and may be used for any purpose necessary to the provision  
12 of local developmental disability services. They may not be used for  
13 departmental salaries, care of developmentally disabled persons by the  
14 department or any other purpose within the department itself, but they may be  
15 used for consultation to the department in the interest of local programs.

16           B. A local public or private nonprofit or profit agency providing or  
17 intending to provide community developmental disability services and desiring  
18 to contract with the department for the furnishing of such services shall  
19 submit a program plan and budget to the department on the forms and in the  
20 manner required by the department. If the program meets departmental  
21 standards and is consistent with the state plan of the department and the  
22 individualized service program plan of the client, the department,  
23 notwithstanding the provisions of title 41, chapter 23, relating to  
24 procurement and including services pursuant to section 36-2943, may contract  
25 with that agency for such services as are required and upon such terms and  
26 conditions as the department shall require. The contracts shall provide that  
27 the provider of services shall be subject to a continuing program evaluation  
28 by the department through progress reports, expenditure reports, program  
29 audits or other appropriate evaluation techniques and to assure that the  
30 provider of service is in continued compliance with the terms of the contract

1 and the department's community developmental disability service standards and  
2 requirements. THE DEPARTMENT SHALL WAIVE ITS MONITORING REQUIREMENTS IF THE  
3 AGENCY THAT PROVIDES SERVICES TO THE DEVELOPMENTALLY DISABLED PERSON SUBMITS  
4 PROOF TO THE DEPARTMENT'S SATISFACTION THAT IT IS ACCREDITED BY A NATIONALLY  
5 RECOGNIZED ACCREDITATION AGENCY.

6 C. Contracts between the department and a school district or districts  
7 shall be subject to approval by the department of education.

8 D. This article does not make the department or the state responsible  
9 for funding programs beyond the limits of legislative appropriation for the  
10 programs. This article does not require a provider of services to provide  
11 unreimbursed services to the department or its clients.

12 E. Contracts to provide community developmental disability services  
13 shall require that:

14 1. The contractor is obligated to operate a program or service in  
15 strict accordance with the standards adopted for such program or service by  
16 the department.

17 2. If state funding is provided for a particular program the  
18 contractor, to the extent of positions available which are being purchased by  
19 the department, shall provide services to a developmentally disabled client  
20 who has been evaluated and placed by the department.

21 3. All contractors must carry liability insurance in amounts approved  
22 by the risk management section of the department of administration and file  
23 proof of such insurance with the risk management section. The director may  
24 waive such requirement on a case by case basis upon a finding that insurance  
25 for such program or service is not practicably available at affordable rates  
26 and that it is necessary that the program or service be provided by the  
27 contractor.

28 4. All clients enrolled in programs shall have all the same specified  
29 rights as they would have if enrolled in a program operated directly by the  
30 state.

31 5. Except for emergency placement pursuant to section 36-560,  
32 subsection N, payment shall not be made based on program services provided to

1       a client if a placement evaluation has not been made, and no individual  
2       program has been prepared and when, upon such placement evaluation, no  
3       recommendation has been made to enroll the client in the particular program  
4       service.

5       This article does not require a contracted agency to provide unreimbursed  
6       services to the department or a client of the department.

7              F. Contracts for the purchase of residential care services other than  
8       those community residential settings licensed pursuant to this chapter shall,  
9       in addition to other general requirements applicable to purchase of care  
10      contractors:

11                  1. Provide for mandatory inspection by the department every two years  
12      for facilities other than group homes.

13                  2. Provide for mandatory monitoring by the department for health,  
14      safety, contractual and programmatic standards at least every six months.

15                  3. Provide for mandatory investigation by the department in response  
16      to complaints within ten working days, except that in those instances which  
17      pose a danger to the client, the department shall conduct the investigation  
18      immediately. Health and safety complaints related to group homes shall be  
19      referred to the department of health services on receipt. The department of  
20      health services shall share all incident reports related to health and safety  
21      with the division of developmental disabilities.

22                  4. Except for group homes licensed by the department of health  
23      services, specify the health and safety and sanitation codes and other codes  
24      or standards applicable to the facility or to the operation of the facility  
25      by the contractor other than group homes.

26                  5. Provide for mandatory periodic reports to be filed by the provider  
27      contractor with the department with respect to the operation of the facility.

28                  6. Provide that the facility and the books and records of the facility  
29      and of the provider are subject to inspection at any time by employees of the  
30      department or designees of the department.

31                  7. Provide that parents and guardians of developmentally disabled  
32      persons residing at the facility, members of the developmental disabilities

1 advisory council, and members of other recognized and ongoing advocacy groups  
2 for developmentally disabled persons may inspect the facility at reasonable  
3 times.

4 G. Contracts for purchase of residential care services shall require a  
5 community residential setting, as defined in section 36-551, to be licensed  
6 pursuant to this chapter other than group homes licensed by the department of  
7 health services.

8 H. The division shall ensure that all contracted developmental  
9 disabilities service providers rendering services pursuant to this chapter  
10 are reimbursed in accordance with title XIX of the social security act.

11 I. Contracts for client services issued by the department shall  
12 include language outlining the provisions for a grievance and appeal  
13 procedure. The director shall provide notice to providers not less than  
14 thirty days prior to the issuance of an amendment to a qualified vendor  
15 agreement. Beginning September 1, 2006, the decision of the director  
16 regarding qualified vendor agreement amendments may be appealed pursuant to  
17 title 41, chapter 6, article 10. The grievance process applicable to these  
18 contracts shall comply with title XIX requirements.

19 J. As a condition of contracts with any developmental disabilities  
20 service provider, the director shall require terms that conform with state  
21 and federal laws, title XIX statutes and regulations and quality  
22 standards. The director shall further require contract terms that ensure  
23 performance by the provider of the provisions of each contract executed  
24 pursuant to this article.

25 K. The division shall establish a rate structure that ensures an  
26 equitable funding basis for private nonprofit or for profit agencies for  
27 services pursuant to subsection B of this section and section 36-2943. In  
28 each fiscal year, the division shall review and adjust the rate structure  
29 based on the provisions of section 36-2959. A rate book shall be published  
30 and updated by the division to announce the rate structure that shall be  
31 incorporated by reference in contracts for client services.

1               L. The division shall disclose to a service provider in the individual  
2               program plan defined by section 36-551 any historical and behavioral  
3               information necessary for the provider to be able to anticipate the client's  
4               future behaviors and needs."

5     Amend title to conform

KIRK ADAMS

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2/8/08

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